

School Impact Fee Working Group
(Established by Act 246, Session Laws of Hawai'i 2005)
State of Hawai'i
www.state.hi.us/auditor

Minutes of Meeting

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawai'i Revised Statutes.

Date: Wednesday, December 28, 2005

Time: 10:00 a.m.

Place: State Capitol
415 South Beretania Street
Conference Room 225
Honolulu, Hawai'i

Present: Senator Sakamoto, President of the Senate Designee
Representative Roy Takumi, Speaker of the House of Representatives Designee (late arrival)
Austin Imamura, Designee for the Mayor of the City & County of Honolulu
Randy Moore, DOE, Superintendent of Education Designee
Anthony Ching, Executive Director, Land Use Commission
Councilmember Dain Kane, President of the Hawai'i Association of Counties
Duane Kashiwai, DOE Employee whose primary area of responsibility is repair and maintenance, capital improvement projects, and land use planning
Patricia Park, DOE, Central Oahu Complex Area Superintendent
Dean Uchida, Executive Director, Land Use Research Foundation
Bob Bruhl, Development Community Member

Marion M. Higa, State Auditor
Jan Yamane, Administrative Deputy Auditor/In-House Counsel, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

Jake Ng, Senator Sakamoto's office

Call to Order: Chair Sakamoto called the meeting to order at 10:04 a.m., at which time quorum was established.

Introductions: Chair Sakamoto welcomed Member Rep. Takumi, Chair, House Committee on Education. Working Group members introduced themselves to Rep. Takumi.

Chair's Report: **Announcements, Introductions, Correspondence, and Additional Distribution**
Chair Sakamoto stated the Working Group has created a letterhead for official correspondence. He mentioned that until the DOE appoints someone to replace Rae Loui, her name will remain on the letterhead.

Minutes of Previous Meetings

Chair Sakamoto asked whether members had reviewed the minutes of December 9, 2005 meeting. Upon a motion by Member Councilmember Kane, seconded by Member Moore, it was voted on and unanimously carried to accept the minutes of the December 9, 2005 School Impact Fee Working Group.

2006
Legislature **School Impact Fee Working Group Report to the 2006 Legislature**
Chair Sakamoto asked whether members reviewed the Working Group Letter Report to President Bunda and Speaker Say.

Upon a motion by Member Councilmember Kane, seconded by Member Moore, it was voted on and unanimously carried to approve the Report to the 2006 Legislature.

Ms. Yamane indicated that the Letter Report will be printed on the School Impact Fee Working Group Letterhead and delivered to President Bunda, Speaker Say, and members of the 2006 Legislature.

School Impact Fee Working Group Legislative Requests

Chair Sakamoto stated that as Chair of the Working Group and of the Senate Education Committee, he needs to introduce measures relating to impact fees or school construction.

Member Councilmember Kane asked if there are any measures in conference from previous sessions that can be revived relating to this; both the House and Senate can be provided with copies of those vehicles in the event we do come forward with recommendations during this session.

Chair Sakamoto responded there are vehicles, but not in conference. The Senate vehicle is in the Senate Ways and Means Committee. Some issues were held in Education Committee.

Consultant
Contract:

Chair Sakamoto asked the group to review the draft consultant contract.

Ms. Yamane explained the draft contract is in the form that could be used to retain a consultant. The scope and other language are from Act 246 (SLH 2005); the timeframe and target dates estimate a 3-month period to complete the work. If the Working Group needs to extend beyond this timeframe, the group would need to go to the Legislature and request an extension. On page 4, the contract amounts are blank.

Member Rep. Takumi stated that this is an opportunity to discuss issues and reach consensus on a number of things related to this Working Group.

Member Moore asked if the 3-month timeframe was based on discussion.

Ms. Yamane responded that the timeframe takes into consideration time needed to gather information, analyze data, and allow for feedback.

Member Uchida asked whether the scope gives any time advantage to prior consultants, in particular Group 70 and Duncan, or is it wide open for Working Group discussion.

Ms. Yamane answered that the draft contract follows the legislation, which does not require a specific methodology.

Member Moore asked, assuming the group says yes to the proposed dates, what are the next steps? How do we finalize a contract?

Chair Sakamoto answered that the Auditor's Office will proceed with the process and select the consultant.

Member Moore asked whether the group needs to solicit other proposals.

State Auditor Higa explained this appropriation of \$150,000 is exempt from the Procurement Code and Ms. Yamane has touched bases with a number of potential consultants. Part of the appropriation would be held back for the Auditor's Office's production costs and other expenses.

Member Moore asked if the consultant will come back with a proposal as to price.

State Auditor Higa answered in the affirmative, but that based on preliminary calls to potential consultants, there's not a lot of interest in this area of work.

Member Uchida described the problem that LURF encountered. Locally, there are no consultants with this kind of experience or expertise and you have to partner with someone on the mainland. This reduces the role of local consultants. Locally, LURF couldn't find anyone with this kind of expertise.

Member Ching stated he supports expediting the analysis. He suggested securing the best possible consultant. There will be constraints that might speak against the 2-1/2 month timeframe given, even without procurement issues. The willingness and expertise are two different things. He suggested a discussion of the scope. The legislation outlined financing mechanisms and programs that need to be looked at, but Member Ching suggested the group look beyond that. The principle of concurrency was raised before the commission, and Member Ching referred to the Findings of Fact, Conclusions of Law in the Koa Ridge docket. He noted that the conclusion regarding public school facilities states, "No occupancy shall occur for the dwelling units in any increment until such time as reasonable and appropriate public school facilities infrastructure has been constructed or has otherwise been provided in the project area to accommodate projected student enrollment from said increment."

The DOE, under mandate, can choose to direct students outside the area and otherwise provide accommodations for classrooms. In terms of 1. Scope of Work – it talks about the different school facilities infrastructure needs proposed by (a)i.(iii)a, b, and c – not only in Central Oahu, but in many other situations where we have new development. There are impacts when developments include second homes, or resort residential or resort facilities, or even major commercial/industrial development which might produce 100 employees. Major resort facilities and major commercial/industrial developments that produce greater than 100 employees create significant market activity, which in turn might produce a change or improvement in residential patterns because of shifting job centers and opportunities. Member Ching's suggested that the scope of work be modified at minimum to include resort residential as an issue when calculating impact.

In the second part of the case study, the needs assessment, Member Ching suggested the group define, limit, or disclaim that maintenance operating costs are to be excluded from or included in this type of analysis. Plans or capacities need to be in place to accommodate early growth. We desire the best for our kids, but we need to grapple with limited resources.

Member Park explained that to achieve FAPE (Free Appropriate Public Education) alignment, the ADA law requires special needs students to be in the least restricted environment, if their needs are minimal. Thus, as appropriate, they should be going to their "home" school. Although the DOE does make arrangements for students to attend other schools if facilities cannot handle, for example, multiple handicaps, the current average special education student should go to their own home school. Mililani Middle School is a selling point for people moving into the area. Homeowners want their child to go to that school and for them to develop their friendships and peers in their neighborhood. Castle & Cooke's interest is to provide a neighborhood school. The other problem is doing projections on the anticipated number of students in the neighborhood, knowing that they're going to get older. This pushes projections down.

Member Ching mentioned that many factors make projections inaccurate. For example, a record that was presented before the commission talked about a build up period, then a maturing of the community, resulting in schools and acreage that are needed by the community. But there are other factors that impact projections, such as kids returning to live in the community, or kids who don't leave and continue to live in the family home, have kids, etc. – these kinds of situations make those projections inaccurate. In existing schools, we have look at multi-tracking and ways to accommodate that. The current scope speaks to financing, but perhaps the greater issue is concurrency.

Member Uchida commented on the deliverable, stating that there's a discussion about the analysis of accommodating growth, student population, and re-distribution. But, the overall

population of students in the public school system hasn't changed over the last 20-30 years and there is a re-distribution of where the needs are. But, the scope of work doesn't talk about that. It's important for the consultant to address that issue up front because impact fees, historically, have not been used as growth control measures. You have growth, and in order to accommodate growth, more and more, you're passing on the public costs to the new developers. It's not necessarily the case here. You have growth and high demand areas, but if the total population is staying the same, what are we doing with the existing schools? It's important that the consultant educate what impact fees are—it's not for R & M, it's for actual construction of the schools. Once it's built, it becomes a school system. It's the school district's responsibility to maintain, operate, and fund accordingly.

On the issue of concurrency, it's a hot-button issue with developers because everybody seems to have a different definition of "concurrency." The biggest philosophical problem with concurrency is everything is on the developer to make sure things get done and the penalty is you cannot get your occupancy for your units built until the school is built. The developer doesn't have control over a lot of the issues that we're talking about for concurrency.

The intent of the legislation was to focus on how do you get funding to build schools; how do we get new schools constructed on a timely basis? Other ideas include smaller schools. Discussions with the Superintendent revealed that she is thinking about schools with an enrollment of 400 students for elementary, middle, and high school, which is totally different from what we're used to. The Superintendent's idea was that the student's achievement/performance was better in smaller settings than they are in large settings. So, she was trying to figure out how she can create a learning environment across the board from Kindergarten – 12th grades. How do you build smaller schools – how do you take into consideration how a community ages and the resulting demographics? Most schools have a life of about 30 years. As the community ages and changes, enrollment drops. There's still a need for some schools, but not as many. So, maybe the developer does not need to dedicate the land in fee simple to DOE – maybe the developer gives DOE some kind of use agreement where as long as there's a need for a school, as long as DOE feels there's a need for it, it stays a school. As the community changes, you can consolidate some of the schools and the community can plan for what to do with the excess schools. As the community ages, maybe there's a need for a performing arts center, park, or senior center. The idea is to get the community more involved in planning of the use of these sites as opposed to just keeping it as a school.

Looking at the DAGS standards for construction, we're building these civil defense shelters—Ocean Pointe is \$37 million, Kapolei Middle is \$68 million—you're looking at the developers to pay for one half of that cost. Maybe, we should look at the standards and get the school constructed, but not the kind of cost figures we're talking about. Pacific Island Academy in Kapolei was built for \$10-12 million, LeJardin was in that same range. If you take one half of that, maybe those are numbers developers could play with as opposed to these large numbers we're dealing with now. Looking at the bigger picture, it's not just about getting the school built, what about who's going to operate, maintain, etc? What's the long-term view of public education in Hawai'i? This illustrates how complex the problem is—trying to build new schools, looking at the overall population, how it's moving. It's fair to tell the consultant to take a look at the whole thing. It's a bigger problem that the Legislature might have to address. The purpose of this is to look at what are the issues dealing with new schools construction.

Member Councilmember Kane commented on the mandate of Act 246, which is a case study that involves Central Oahu. Does it reflect statewide cost analysis? The trend is there's a transition going on and growth trends are occurring more outside of core Honolulu. It is important for the group to instruct or incorporate language or suggest to the consultant that the case study doesn't reflect the statewide situation. The ultimate goal is to get a number that will reflect that. Although Act 246 says Central Oahu, it's going to give us low numbers. It's not going to be realistic.

Member Bruhl stated the group has an objective to use Central Oahu as the case study. Keep it simple and everyone has something to work with.

Member Moore said we should look at Central Oahu, not as providing numbers, but as providing a framework for determining numbers that everyone recognizes will change. If a study of Central Oahu is conducted five years from now, it will be different from the study conducted five years ago.

Member Uchida stated that one objective is to set up a methodology that can be applied to where growth is occurring.

Member Rep. Takumi responded this is the whole intent of creating this working group—to come up with some mechanism.

Chair Sakamoto said we should try to see which of these ideas will stick, which parts we want to amend.

Member Bruhl stated that we should consider other areas to study. The group does not need to decide those areas now, but the idea of studying other areas should be proposed to the Legislature.

Member Ching added maintenance and operating costs should be excluded. The methodology has to be considerate, of both new construction in the particular community and accommodations for that region also.

Member Kashiwai said that we should add a fourth item in the deliverables—the consultant should identify any other issues that may fall outside this project.

Chair Sakamoto stated that there are certain things that he would want during this session. At a minimum, he would want a draft report and, thus, wants to see the group make certain decisions and take action to achieve this goal. Going back to the case study – what do we need to add/change? Chair Sakamoto stated that the minutes of this meeting will help the consultant understand the issues and see the group's discussion.

Ms. Yamane said that the Working Group was created with the intent to include members with diverse backgrounds, so everyone in the group has a different focus. There is some danger in being too specific in the contract. One way to aid the consultant's understanding is to stay with broad contract language that provides some flexibility, share the minutes from this meeting with the consultant, and then have another Working Group discussion with the consultant to flush out and sharpen issues.

Member Uchida added the reasoning behind a case study using Central Oahu was the fact that it is easier to nail down the planning. The group needs to understand to analyze the larger issues and then apply it to an area—existing development, proposed growth, multiple sources, etc. To make it a faster study, the idea was to look at an area just dealing with two developers with master plan communities. Project growth can be calculated. A methodology can be set up. The purpose of the case study for Central Oahu was to pick a situation with accessible data.

Chair Sakamoto asked the group if they are comfortable with trying to have the Auditor's Office incorporate thoughts in the draft, proceed with procuring a consultant, and commencing with the work.

Member Councilmember Kane stated that the scope appears to capture almost all of our discussion. The language is broad enough that the minutes would probably help the consultant. It would be in our best interest, given the time constraints, to move forward and get a consultant on board. The minutes will show that everyone has different opinions and interests. The group has enough for the scope of work to move forward.

Chair Sakamoto asked if there are any specifics the group wants to add/delete.

Member Ching suggested two amendments. One amendment is Member Kashiwai's amendment to add an item (iv) to the deliverables to identify other issues. The second

amendment is to item 1.i.(iii)(c), which says, "The varied market prices targeted by differing types of developments." Member Ching proposes to delete the term, "varied market prices targeted" and have it read, "different types of developments (i.e. resort facilities, resort residential, major industrial/commercial development that generate 100 employees or more)."

Member Uchida asked if commercial developments would exceed 100 employees.

Member Ching answered no, not necessarily, but the language would help to clarify the differing school facilities infrastructure needs, if any, proposed by (a), (b), and (c).

Member Uchida expressed concern on the employment portion of Member Ching's proposed language – the other parts in his proposal are all generating units. Opening up the discussion to include employment, however, raises a different concern. The focus should be on people living in an area as opposed to working in an area.

Chair Sakamoto asked for other amendments and discussion.

Member Councilmember Kane stated by including the resort residential component, are we excluding other components of development. Member Councilmember Kane asked for clarification.

Member Ching answered that a. and b. describe types of development, but he believes they do not include resort residential or resort facilities. He wants resort residential and resort facilities to be specifically named because that is what's being built and coming up as issues before the commission.

Chair Sakamoto suggested a draft by April 7th. Member Bruhl indicated that the Working Group needs to be responsive during this session (2006).

Member Kashiwai expressed concern about compressing time or rushing when analyzing the impact fee data.

Member Ching suggested a draft report by April 1st, which would give the consultant three weeks to finalize the report.

State Auditor Higa suggested March 30th.

Planning:

Member Councilmember Kane suggested the group schedule a meeting that would correlate to with the draft report due date. He suggested that a Working Group meeting be scheduled for April 6th or 7th, that way the agenda could be posted on March 31st.

Chair Sakamoto asked for the group to commit to a meeting at 10:00 a.m., April 6, 2006, in the Capitol's Conf. Rm. 225. Chair Sakamoto summarized action items, including finalizing the draft contract, engaging a consultant, and then scheduling another Working Group meeting to discuss issues and work with the consultant.

Member Councilmember Kane asked about the agenda for the next meeting. Chair Sakamoto stated that at the next meeting, if the consultant is already on board, he would want to discuss the issues with the consultant. The consultant will not be expected to work alone. The Working Group will need to focus on what has been discussed so far and what is important to include in the consultant's work. The process will also educate the Working Group members--where we as a body, whether we understand the perspective of the schools, developers, etc.

Member Park recommended having a meeting after February 20th so the consultant can dialogue with the group.

Member Uchida asked if there are individuals on other committees to help the consultant get started? It might be time well-spent to itemize what the consultant might need and then ask the

developing community, DOE, or whoever might get hold of information, to assemble it for the consultant.

State Auditor Higa said the expectation is the consultant would work closely with the Working Group members, for example the DOE employees, to gather DOE information and the like. Members agreed that they would be resources for the consultant. It would be helpful for information to be assembled for the consultant, but the group doesn't know what information they will need. Chair Sakamoto suggested having a meeting on Thursday, February 23rd, 10:00 a.m.

Member Park suggested setting the date for the second meeting in April on Thursday, the 6th.

Future
Meetings:

Two meetings were scheduled for:

Date: February 23, 2006
Time: 10:00 a.m.
Place: State Capitol, Conf. Rm. 225

Date: April 6, 2006
Time: 10:00 a.m.
Place: State Capitol, Conf. Rm. 225

Adjournment: With no further business to discuss, Chair Sakamoto adjourned the meeting at 11:45 a.m.

Reviewed and approved by:



Jan Yamane
Administrative Deputy Auditor/In-House Counsel

February 27, 2006

[] Approved as circulated.

[X] Approved with corrections; see minutes of February 23, 2006 meeting.

SIFWG/122805